



Michigan Statewide Primary Election Ballot

13

NOTICE: It is a felony if you sign this ballot if it is untrue; you can be fined and imprisoned.

☐ Yes ☐ No Are you a citizen of Michigan? Will you be 18 years of age on Election Day?

VOTER DECLARATION—Read, sign, and complete this form.

I am a U.S. citizen, will be at least 18 years of age on Election Day, and am not imprisoned or on parole for a felony conviction under the laws of the State of Michigan that all the laws of the State of Michigan.

SIGNATURE—You must sign and date this ballot.

☒ Signature **70 GK 94**

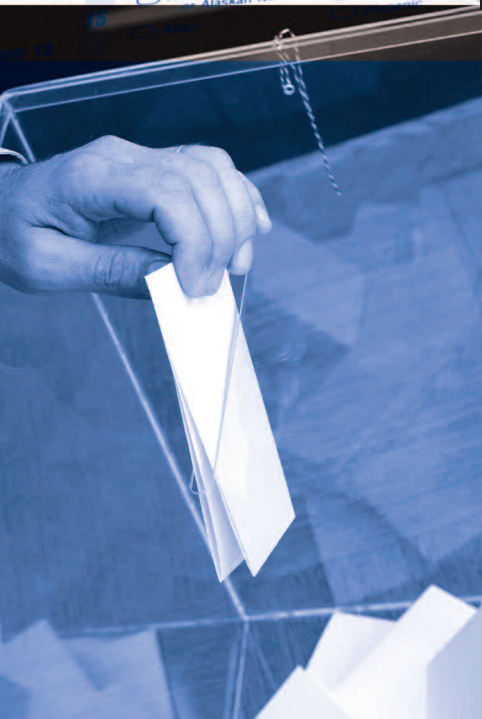
OPTIONAL SURVEY: Can you help in the election?

☐ Provide a Polling Place Site

☐ Polling Place Worker

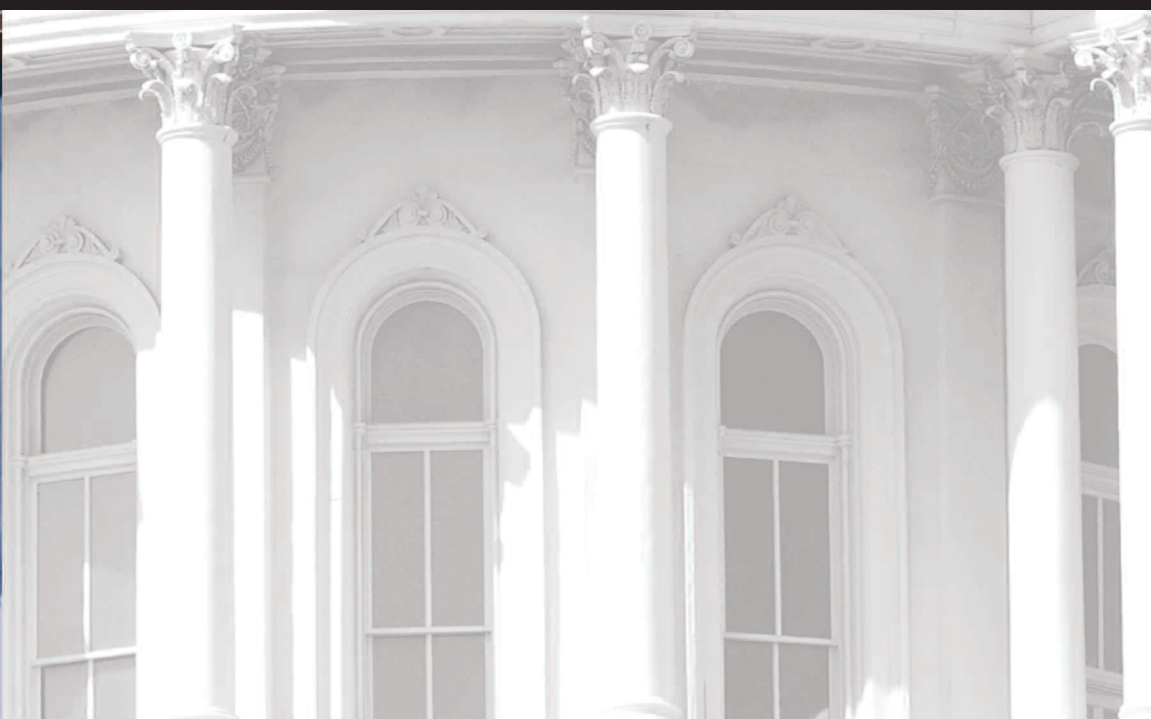
OPTIONAL: Please check your ethnic background.

☐ American Indian ☐ Black ☐ Asian or Pacific Islander ☐ Filipino ☐ Hispanic or Latino ☐ Japanese or Japanese American ☐ Korean or Korean American ☐ Mexican or Mexican American ☐ Native Hawaiian or Other Pacific Islander ☐ Non-Hispanic or Latino White



MICHIGAN'S ELECTIONS IN THE 21ST CENTURY:

A REPORT OF THE
SENATE CAMPAIGN & ELECTION
OVERSIGHT COMMITTEE



STATEMENT OF THE CHAIR

The Senate Committee on Campaign & Election Oversight was formed in 2007 with a mission to oversee and evaluate Michigan's elections process, and to seek updates that will maintain the integrity of elected office in Michigan. As the chair, I am excited to be working on issues that are so vital to our democratic process.

As legislators, we risk getting caught up in the environment of Lansing, thus not fully understanding the views and problems that Michigan voters face when going to the polls. With this in mind, the Senate Campaign & Election Oversight Committee held a series of hearings around the state to take testimony from local elected officials, interest groups, practitioners, educators and voters regarding Michigan's voting system, and some of the proposed reforms that could be instrumental in maintaining the integrity of our elections system.

Our travels took us to Gaylord, Plainfield Township in Kent County, Troy, Saginaw and Lansing, where we concluded our tour with a hearing featuring testimony from Secretary of State Terri Lynn Land. We took testimony on many issues including those related to election reform, cleaning up Michigan's constitution and legislative reforms. From the beginning, it was evident that the needs of Michigan voters were as diverse as our state's geographic regions. However, we were able to find common ground on several issues.

In this report, you will find an overview of the findings of the committee.



State Senator Michelle A. McManus
Chair, Campaign and Election Oversight Committee



State Senator Cameron S. Brown
Vice-Chair, Campaign and Election Oversight Committee



ACKNOWLEDGEMENTS

The committee wishes to thank the many elections officials, academics, political leaders, members of the public and members of the media who contributed to this report, either by testifying at one of our hearings or submitting their comments through other means. We all share a common goal – to improve the elections process for Michigan voters. This report would not have been possible without their contributions.

The committee extends a special thanks to the hosts of our hearings across the state:

Otsego County Courthouse, Gaylord
Plainfield Township Hall, Plainfield Twp
Detroit Marriott, Troy
Saginaw Valley State University, Saginaw

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SUMMARY OF FINDINGS

The right to vote is enshrined in our constitution, and Michigan voters deserve the opportunity to participate in elections that are fair, accurate and without unreasonable barriers. Recognizing this, the Senate Campaign & Election Oversight Committee has gathered testimony from across the state to assess Michigan's elections process. The following is a summary of the committee's findings on issues related to voting in Michigan.

Initiative Petitions

The initiative process enables citizens to bypass their state legislature by placing proposed statutes and, in Michigan and some other states, constitutional amendments on the ballot. A total of 204 ballot propositions went before the voters in 37 states in November 2006, up from 162 propositions in November 2004. Testimony suggests Michigan's initiative petition process needs reforms to preserve its integrity and protect it from being manipulated by well-funded groups from other states.

School Elections

In 2004, the Michigan Legislature passed election law reforms consolidating all elections, including schools, into four dates. Schools are no longer allowed to conduct their own school elections in early June. The closest date available to them is the May consolidated election date, and very few schools have selected another date. As a result, school election and/or ballot millage issues are often the only item appearing on the local ballot, leaving schools responsible for enormous bills to reimburse the local clerk for the entire cost of running their election. School and election officials have expressed the need to make changes to the consolidated election law.

Super Precincts

There is a movement across the country to reform standard polling places to accommodate for more voters and their busy schedules and to address current staffing issues. Super precincts as they are often called, are defined as a polling place at which any registered voter may vote, regardless of the precinct in which the voter lives. In testimony, Secretary of State Terri Lynn Land proposed amending election law to allow for a pilot program that tests the feasibility of super precincts in Michigan. She testified that super precincts require fewer poll workers, permit workers to specialize in one area of election administration, and offer greater convenience and support to voters with disabilities.

Term Limits

Since 1992, Michigan has had a constitutional amendment limiting the number of terms an elected official may serve in various offices. Limited to two terms are the governor, lieutenant governor, secretary of state, attorney general, and state senators, whose terms of office are four years. Limited to three terms are state representatives, whose term is two years. When passed, proponents said term limits would increase participation and create a citizen-legislature. Committee testimony revealed serious concerns regarding Michigan's term limits as they stand today.



Early Voting

All states allow voters the option of casting their ballot prior to Election Day, whether it is in-person early voting, expanded-reason absentee voting and no-reason absentee voting in person or via the U.S. mail. In Michigan, registered voters who wish to cast their ballots prior to Election Day can do so by mail if they certify that they meet one of six criteria to receive an absentee ballot. Advocates for expanding early voting options in Michigan say it will increase participation and relieve congestion of polling stations on Election Day. In testimony before the committee, rural clerks in particular expressed concerns about the impact such reforms would have on their already limited resources.

Robo-calls

During the 2006 election cycle, automated telephone calls were used extensively to reach voters, particularly in districts with tight races. The use of these calls has increased due to technical improvements and the cost effectiveness of turning out the vote for or against a candidate or issue during an election cycle. Early in the hearing process, the committee heard testimony from individuals supporting the regulation of “robo calls.” Numerous witnesses testified as to the inability to determine who paid for the calls as one of the many frustrations of the average voter.

Constitutional Cleanup

According to Bill Ballenger, editor of Inside Michigan Politics, there are no less than 11 single-spaced pages of obsolete or invalid text in the Michigan Constitution. Testifiers recommended that the Legislature “clean up” the current constitution with a single joint resolution that could then be placed on the ballot for voters to either accept or reject with one vote. Some provisions that would be removed include:

- Invalid provision establishing the voting age at 21 instead of 18;
- Unconstitutional term limits provision for federal elected officials;
- Invalid requirement that only property owners can vote on millage or bond proposals; and
- Out-of-date requirements for representation on county boards of commissioners.

Electronic Poll Book

An electronic poll book, also known as an e-poll book, is typically either hardware, software or a combination of the two that allows elections officials to review and/or process voter information during an election. This software or hardware is used in place of paper-based poll books, typically three-ring binders. Proponents say the electronic poll book would serve the same purpose and function as the traditional paper book with the benefits of increased speed, accuracy and security.

Inactive Voter File

Like many states, Michigan has voters with no activity on their file in several years. Carrying inactive voters on the voting rolls inflates Michigan voter registration numbers and increases election costs. Testimony suggests that creating an “inactive” voter file would help reduce costs by allowing election officials to count only active voters when printing ballots and making other election preparations. The inactive voter status would not prevent anyone with this designation from voting on Election Day. Voters labeled “inactive” would remain on the precinct list and be extended the same opportunities as other voters.



MODERNIZING THE MICHIGAN LEGISLATURE

When the 94th Michigan Legislature convened in January 2007, it faced numerous challenges, including a stagnant economy, a looming budget deficit and a shrinking population. Several months of difficult budget negotiations have left many concerned about the state of Michigan's legislative system. The committee took testimony on a variety of issues related to modernizing the Michigan Legislature.

Term Limits

Term limits have been called the most significant change to the institution since the legislative modernization of the 1960s and 1970s. The term-limits movement came to Michigan in November 1992, when voters overwhelmingly approved an amendment to the state constitution that limits the number of terms a person may serve in various public offices. These lifetime limits affect officeholders sworn into office on or after January 1, 1993.

Supporters of term limits claim they lead to more diversity in the Legislature, an increase in open seats, an increased level of responsiveness to legislative districts and a return to the ideal of the "citizen legislator."

Opponents refute these claims, saying term limits have shifted legislators' focus to their next position, reduced competitiveness in elections and actually made legislatures less diverse.

On June 29, 2007, the Senate Campaign and Elections Oversight Committee heard testimony on Michigan's term limits system. Dr. Marjorie Sarbaugh-Thompson, a Wayne State University Associate Professor and author of the book *Political and Institutional Effects of Term Limits*, presented her findings on the issue.

Dr. Sarbaugh-Thompson's study concluded that the institution of term limits has largely failed to fulfill the promises made by its proponents. She found that elections appear to be less competitive, citizen legislators have become less common, bureaucrats, lobbyists, caucus leaders and the governor have gained power at the expense of legislators, partisanship has become more pronounced and collegiality has declined. In addition, she stated there appears to be less bipartisan consultation and less time spent building coalitions to pass legislation across party lines.

While term limits have led to more legislative turnover, there has been no impact on the level of competition for open seat races. In fact, in California, term limits have brought about less competitive elections. According to Dr. Sarbaugh-Thompson's research, term limits have increased the incumbency advantage and decreased the probability that a statehouse election will be competitive.

Legislators have become more influenced by lobbyists because they are viewed as a source of information and guidance. The increased cost of elections has also provided special interest groups an opportunity to increase their influence through much-needed contributions. After term limits, Sarbaugh-Thompson research lobbyists were among the top three most influential actors who determined whether a bill reached the floor of the Senate or House. Prior to term limits, lobbyists were not among the top three actors.



Revolving Door

Since term limits were enacted at the state level, there is concern about the revolving door between public service and the industries that interact with government. Michigan's term limits system has created a need for elected officials to locate another position by the time their service ends. Elected officials are increasingly likely to use their lame duck term to start searching for that new position. Many find positions in the lobbying corps, where their connections and experience make them attractive to industries interacting with government.

Twenty-six states mandate a period that must elapse until a former legislator can represent clients before the legislature. These cooling-off-period laws are intended to keep former legislators from using their government connections to benefit themselves or their business interests after they leave office. Currently, Michigan is among the minority of states with no such restrictions. Nineteen states restrict former legislators from lobbying for one year, while six states restrict for two years. Maryland law bans lobbying until the conclusion of the next regular session that begins after the member leaves office. West Virginia bans lobbying for six months.

Although not all former legislators will be employed as full-time lobbyists, it is conceivable that an employer may want to take advantage of that former legislator's experience and knowledge to communicate directly with a public official where the purpose of the communication is to influence that official's legislative action. According to an analysis conducted by the Center of Public Integrity in 2005, there are more than 1,300 ex-lawmakers registered as lobbyists across the country. This analysis found that Michigan had 43 ex-lawmakers registered as lobbyists.

In 1999, Michael A. Lawrence, professor at Detroit College of Law at Michigan State University, prepared a report on The Proposed Government Ethics Act of 1999 for the Michigan Law Revision Commission. This report proposed a comprehensive ethics act that covers all public officials including elected, appointed, legislative, executive and judicial. One of the key findings in the report reads: "Ethics laws in Michigan are inadequate in several key respects. First, they do not elucidate a clearly defined, comprehensive set of conflict of interest and revolving door standards."

To discourage the potential for ethical issues to arise, the report suggests elected officials should be prohibited from engaging in paid lobbying for one year after leaving office. By prohibiting legislators from becoming lobbyists immediately upon leaving public office, it would allow them to focus on serving their constituents instead of lining up future employment in the lobbying corps. Allowing a period before accepting a lobbying job can lessen any suspicion that a legislator is beholden to any special interest. Currently, legislators might use their current office to set up future jobs by trying to ingratiate themselves with firms by cozying up to their interests. Adding a cooling-off-period provision would enhance the public trust in their government and curb voters' skepticism about public officials.



Part-Time Legislature

Some believe reducing the time lawmakers spend in Lansing would force the Legislature to focus on the real needs of the state. With a reduced schedule, lawmakers would come to Lansing and know that priority issues would need the most attention. Creating a government that questions what it does is seen by many as being in the public's best interest.

Advocates for a full-time legislature argue that such a commitment is needed to find solutions to the wide variety of problems our state faces. They contend that making service in the Legislature a part-time position would force elected officials to find other employment to make ends meet, which has the potential to create conflicts between their employers' interests and the interests of their constituents.

There are no assurances that a part-time legislature would lead to smaller government. The factors that determine the size of government, like the budget, have to be accomplished regardless of how long the Legislature is in session. A part-time legislature would merely give people less time to make important decisions. As a result, our state might end up with government that is not only bigger, but also less effective.

According to prominent lawyer and constitutional expert Richard McLellan, "part-time legislature" is a political term, but it is also potentially a legal term with meaning embedded in our constitution. Thus, the meaning given to the term should be carefully considered. In a political sense, the term is used by people with a negative attitude toward government in general and who believe that less of anything, including legislative services, is a good thing. In a legal sense, the term implies a constitutionally-mandated limit on the number of session days the Legislature may operate during a two-year legislative term.

No Work / No Pay for Absentee Legislators

A concept has been formulated to have each legislative chamber establish by rule an excused-absence policy. If legislators violate the excused absence policy, there should be a deduction from their salary for each unexcused absence from session.

The goal is to have each legislator attend every legislative session. Any day the legislative body is in session and a legislator does not attend, that legislator shall have his or her salary reduced on a pro-rata basis unless there is an excused absence. The reason for the excused absence shall be publicly stated and approved on a vote of that legislative body.

Some proposed excused absences could include the birth or adoption of a child or grandchild, military duty, serious illness of the legislator or a member of the legislator's family, or death of a family member. An excused absence shall not be granted for out-of-state travel taken at public or private expense, vacation, or time spent campaigning for office. Each chamber of the legislature may provide by rule its own excused absence policy.



ONE SIZE DOESN'T FIT ALL

The Senate Campaign and Election Oversight Committee held hearings across the state and heard from elections officials, academics, political leaders and voters. From the beginning, it was evident that the needs of Michigan voters were as diverse as our state's geographic regions. As we explore the many options for voting reform, it is vital we keep in mind the various needs and challenges faced by voters and election workers across the state. In testimony from numerous hearings, we were often reminded one size certainly does not fit all.

Early Voting

During the last decade, numerous states have adopted measures to make voting available earlier than on the actual election day. Texas pioneered the idea of “early voting” in the early 1990s, and according to the National Conference of State Legislatures (NCSL), more than half of the states have some form of early voting or in-person absentee voting. In reality, all states offer some type of voting prior to Election Day, whether it is in-person early voting, expanded-reason absentee voting and no-reason absentee voting in person or via the U.S. mail.

While the discussion of no-reason absentee voting is often coupled or used in the same context as early voting, the two processes are entirely different. Early voting requires that voters visit an election official's office and cast a ballot without offering an excuse to vote prior to election day. Early voting is generally conducted using the same equipment that is available on election day. The time for early voting varies among the states with some allowing as long as 14 days prior to an election.

With any expansion of voting options, there is always a multitude of election-administration issues to be addressed. In Michigan, there are more than 1400 different units administering elections. We are a diverse state, with rural, urban and suburban voting precincts. Any consideration of expanding options for voters must take into account the challenges faced by clerks in different municipalities. The committee heard testimony from several clerks at the hearings, indicating that “one size doesn't fit all” when it comes to expanding voting options.

Rural and urban clerks have vastly different needs when it comes to election administration. Rural clerks are generally open for business on a part-time basis, and some very rural areas do not even maintain their own facility. Instead, they utilize a church or day care center as their election polling place.

On the other hand, urban clerks are full-time, hold regular business hours and employ staffs to assist in conducting elections. Many urban and suburban clerks are eager to embrace new technologies and other means to streamline the voting process.

During the committee hearing in Gaylord, several rural county and township clerks voiced their opinion on this matter. Osceola County Clerk Karen Bluhm said: “I am concerned as to how an early voting system would work given our part-time status. I can understand the proposal from the larger cities' point of view, but from the perspective of a rural clerk, I am worried as to how we would implement it.”



Ms. Bluhm continued, “As Osceola County clerk, I am responsible for 16 townships, two cities and four villages. With a small, part-time staff, most of whom have regular full-time positions, it would completely overwhelm the system.”

However, at a committee hearing in Oakland County, Shelby Township Clerk Terri Kowal indicated she prefers allowing early voting. Kowal said it keeps costs down by avoiding additional postage costs by utilizing equipment already in place, and is a more secure way of voting because the vote is counted immediately whereas a mailed ballot could be tampered with or lost. Linda Shannon, the Auburn Hills clerk echoed this point, stating that early voting decreases instances of flawed ballots.

School Elections

In 2004, the Michigan Legislature passed election law reforms consolidating all elections, including schools, into four dates. By statute, elections are to occur on the fourth Tuesday in February, second Tuesday of May or the more traditional election dates of the second Tuesday in August and November in either the even or odd year. The election reforms, otherwise known as the “Hammerstrom Election Consolidation Act,” were designed to simplify elections in Michigan; to bring school elections under the control of those individuals who were elected to conduct elections; and to increase voter turnout.

Schools are no longer allowed to conduct their own school elections. Under consolidation, schools were allowed to choose among the dates stated in the statute. Very few schools have selected a date other than the May date. As a result of that selection, school election and/or ballot millage issues are often the only item appearing on the local ballot and therefore schools are responsible for reimbursing the local clerk for the entire cost of running their election.

Schools have faced enormous bills from local clerks for running their election in May. Oakland County Clerk Ruth Johnson stated that “millions could be saved by school districts with a move to a different date.” Some school districts in Oakland County faced bills into the thousands of dollars for conducting a school election. Many of the costs can be attributed to the way in which school district lines are drawn, expansion of the absentee voter applications to local electors and the number of precincts needed to ensure voters have access to the election. Additionally, municipalities may have several school districts within their boundaries all adding to the complications and costs of school elections.

School and election officials have expressed the need to change the consolidated election law. If schools “piggybacked” onto another election date, then their costs drop dramatically because the school is only responsible for its pro-rata share of the election, which can be minimal. Essentially, the school becomes the last one to pay.



Super Precincts

The issue of early voting expansion is often tied to the use of “super precincts” which is an effort to redesign the polling place to accommodate busy voters. Colorado pioneered the “Universal Vote Centers” or “super precincts” early in this decade. Super precincts is a reform that is expanding across the states as technology changes allow for centralized voting through the use of electronic poll books, and touch-screen voting. These “mega precincts” are often defined as any polling place at which any registered voter in the political subdivision holding the election may vote, regardless of where the voter lives.

As with any expansion of voting options, concerns have been raised regarding election administration and the implications for the diverse voting districts found in Michigan. Again, rural clerks face different issues than urban clerks when dealing with expansion of voting options. Rural voters also may face obstacles like drive time to a more centralized polling location, and that may prevent them from having the same opportunities as voters in a more urban area.

Secretary of State Terri Lynn Land supports a pilot program to determine the viability of “super precincts” in Michigan. Under the proposal, a super precinct would be created wherein any voter could enter the polling place and vote at the centralized location regardless of where they typically vote. Each individual voter would need to be appropriately registered and on the Qualified Voter File (QVF). The pilot program would be used on one of the four consolidated election dates, as long as it was not held during an even year August primary or November general election.



RETURNING ELECTIONS TO GRASSROOTS

As technology improves and election campaigns become more sophisticated, some feel there is a growing disconnect between the voting public and the people and issues they are asked to choose from in the voting booth. Testifiers expressed a strong desire to see Michigan return its elections to the grassroots.

Initiative Petition

The right of initiative and referendum is a fundamental power reserved to the people of Michigan as a way to make changes to the state's laws and constitution outside of the Legislature's role. In recent election cycles, Michigan has seen a growing number of outside groups seeking to change the Michigan Constitution and statutes that impact our state's residents.

In Gaylord, the committee heard testimony about some of the challenges presented by outside groups influencing Michigan's initiative petition process. Jim Schaeffer of Citizens for Wildlife Conservation stated, "The side with the deepest pocketbook has historically won these fights. We must put a stop to paid signature gatherers and those from companies outside our state who continually abuse the process."

Secretary of State Terri Lynn Land has encouraged the Legislature to review the initiative process, seeking ways to provide opportunities for voters to become more informed of the process and the issues. A workgroup made up of members of the Legislature, secretary of state's office, and practitioners met throughout 2007 to study procedures and suggestions for making the process more thoughtful and deliberative.

Many of the suggested changes coming from the workgroup and discussed in testimony before the committee would make for a more informed electorate. In testimony at the Gaylord hearing, Ed Rivet of Right to Life Michigan, voiced his concern about petition signature gatherers' motivation. He said voters had a right to know whether signature gatherers were volunteering their time or were being paid to collect names.

Chris Thomas of Michigan's Bureau of Elections testified before the committee in Lansing. He outlined some of the changes the secretary of state has proposed, and said they would create a more deliberative process for amending the state constitution.

Several recommended changes under discussion include:

- Unifying procedures for organizations seeking to advance petitions, such as approval of the petition form prior to circulation;
- Reinforcing the criminal penalties for collecting signatures through fraud, deceit, or misrepresentation;
- Including caution language for signers to carefully and thoroughly read the text of a proposal before signing;
- Clarifying residency for circulators and requiring that they wear a badge identifying them as paid circulators or volunteers;
- Changing the filing deadline and extending the challenge period for signature verification; and
- Requiring some of the signatures be obtained in different geographic areas of the state to assure that all voters have an opportunity to support/oppose a petition.



Presidential Primary

Michigan's presidential primary elections have undergone numerous changes since 1912, when it was first required that the state hold a presidential preference primary in April. Changes have ranged from when primary elections are held to how delegates are selected for the national conventions.

In 1992, both the Republicans and Democratic parties revised their respective rules that allowed Democrats to essentially declare in writing at the polls on election day a preference for the Democratic Party if a registered voter had not otherwise declared a preference. The Republicans allowed registered voters, regardless of party preference indicated on their registration, to vote Republican by requesting a Republican ballot on election day.

Public Act 87 of 1995 eliminated the party preference requirement, thereby creating an "open" primary in which voters did not have to declare a preference and were allowed to vote in either primary. This allowed Democrats to vote in the Republican primary and vice versa. Because there was no contested race in 2004, the Legislature adopted legislation to eliminate the presidential primary for the 2004 election for the participating parties. The Democrats continued with their caucus system which had been implemented earlier under national party rules.

For the first time in decades, the 2008 presidential election features contested primaries for both major parties' nominations. With that in mind, the Michigan Republican Party assigned a taskforce to review the process for conducting a presidential primary. From this taskforce came the recommended changes to election law regarding the presidential primary. Republicans entered into negotiations with the Michigan Democratic Party to bring about change in the presidential primary election and to move Michigan to the forefront of state primaries.

The chairs of both parties testified before the committee about the importance of making Michigan's issues known to the presidential candidates. As the country's economy has continued to grow, Michigan's has remained stagnant. The state party chairs testified that by moving the presidential primary to an earlier date than February, it would bring attention to the issues Michigan faces. In addition, they stated a state-run joint primary would give voice to the nominee preferences of the maximum number of Michigan voters.

SB 624 (McManus), now PA 52 of 2007, was a result of the negotiations and commitment of both major political parties to bring Michigan to the forefront of the presidential election process by moving the election date to January 15, 2008, and establishing a "semi-open" state-run joint primary. The new system is a "semi-open" system in which voters select which ballot they wish to vote. Voters fill out a form indicating which party's ballot they wish to vote. Information on individual voters' ballot selections will be made available to the two parties, but will not be considered public information under the Freedom of Information Act. The new law includes restrictions on how the parties can use that information.



Robo Calls

The use of automated telephone calls, also known as “robo calls,” to reach voters has increased dramatically due to technical improvements and the cost effectiveness of turning out the vote for or against a candidate or issue during an election cycle. Many times these calls are used to “define” an issue or candidate and not necessarily to oppose or support a candidate or issue. During the 2006 election, these calls were used extensively to reach voters, particularly in marginal districts. Virtually every candidate faced angry constituents who complained of receiving multiple phone calls at all hours of the day and night.

Early in the hearing process, the committee heard testimony from individuals supporting the regulation of “robo calls.” Numerous witnesses testified that the inability to determine who paid for the calls frustrated the average voter.

As a result, a package of bills was introduced and passed by the Senate to begin to address the issue of “robo calls.” SB 3 (Hardiman) amended the Michigan Campaign Finance Act to provide a definition of an “automated telephonic communication”: any outbound call that plays a recorded message expressly advocating for or against an election, candidate, or ballot question.

SB 284 (Richardville) amended the act to require disclosure of those making “robo calls.”

Since the adoption of the act in the late 1970s, there have been significant advances in communications technology, including Internet, e-mail and satellite radio. The act currently is silent as to these forms of communications and persons interested in utilizing these forms of communications for elections are regulated by the Department of State’s rulings.

SB 285 (McManus) was introduced and passed by the Senate to codify Secretary of State rulings and to add to the list of communication devices used in elections that will require a disclaimer as to who paid for the communication.



REVITALIZING THE MICHIGAN CONSTITUTION

Michigan's current constitution was adopted in 1963 and was regarded as a flexible and innovative document. Since then, it has been amended a number of times, and it now contains several outdated, obsolete or otherwise invalid provisions. With 2010 approaching, some have asked whether a constitutional convention should be convened. Others feel there may be a simpler way to revitalize Michigan's constitution.

Constitutional Clean Up

On Sept. 17, 2007, the Senate Campaign and Elections Oversight Committee heard testimony on a periodic revision of the State Constitution on an amendment by amendment basis. Former legislator and capitol columnist Bill Ballenger and his students from Central Michigan University, John Axe from Citizens for Michigan and Bob Labrant from the Michigan Chamber of Commerce all shared their thoughts on this important issue. Committee members learned that there are several provisions in the state constitution that are inoperative and obsolete due to a direct violation of the U.S. Constitution.

The primary function of the constitution is to inform citizens of the fundamental law by which they are governed. Every sixteen years the question of whether to call a constitutional convention to revise the Michigan Constitution is automatically placed on the statewide ballot as required by the constitution. In November 1994, Michigan voters rejected the calling of a convention to revise the Michigan Constitution, by a margin of 72 percent to 28 percent. As required by the constitution, Michigan voters will be asked again in 2010 whether a constitutional convention is required at that time.

During a Central Michigan University mock Legislature class project taught by Ballenger, students determined a need for a constitutional convention on the basis that once you start reviewing a couple provisions it is worth reviewing and considering the entire document. The mock Legislature could only gain enough support on expanding term limits and an amendment to clean up the constitution. Ballenger's class project identified that in order for the Michigan Constitution to truly reflect these fundamental laws, invalid provisions that are in conflict with U.S. Supreme Court and Michigan Supreme Court interpretations of the U.S. Constitution need to be revised. Committee testimony identified the following six issues as requiring revision:

- 1) **Exclusionary rule**
- 2) **Voting age**
- 3) **Property**
- 4) **County**
- 5) **Legislative**
- 6) **Term Limits**



Exclusionary Rule

In *People v Pennington*, 383 Mich 611 (1970), the Michigan Supreme Court held that the last sentence of Section 11 of Article 1, which allows certain evidence to be admitted into criminal proceedings, violates the exclusionary rule adopted by the United States Supreme Court in *Mapp v Ohio*, 387 US 643 (1961). The exclusionary rule provides that evidence obtained by law enforcement in violation of the Fourth Amendment to the United States Constitution must be excluded from criminal proceedings.

Voting Age

The requirement contained in Section 1 of Article 2 that voters must be at least 21 years of age was rendered invalid by the Twenty-Sixth Amendment to the United States Constitution, which lowered the voting age to 18.

Property Ownership Requirement

Section 6 of Article 2 restricted to property owners the right to vote on certain ad valorem tax limitation increases and bond issues. This provision has been unenforceable since the United States Supreme Court held that such restrictions violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *City of Phoenix v Kolodziejski*, 399 US 204 (1970). The reference to this property ownership requirement found in Section 6 of Article 9 of the State Constitution is also inoperative for the same reason.

County Board of Supervisors

Section 7 of Article 7 requires that a board of supervisors be established in each county of the state. The board of supervisors is to consist of one member from each organized township and representation from cities as provided by law. In 1966, the Michigan Supreme Court held that the method of apportioning county boards of supervisors violated the equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *Advisory Opinion re: Constitutionality of Public Act 261 of 1966*, 380 Mich 736 (1966). The Michigan Supreme Court followed the reasoning of a U.S. Supreme Court decision regarding the redistricting of local governmental legislative bodies. The Michigan Legislature later enacted county commission redistricting standards legislation (MCL 46.401).

Legislative Apportionment

Parts of five sections in Article 4 that relate to legislative apportionment are invalid. Legislative apportionment is the method by which the state is divided into geographic districts from which voters elect state senators and state representatives. The state constitution is deficient with regards to legislative apportionment and what standards are to govern the process. Less than one year after the 1963 state constitution was adopted, a majority of the apportionment provisions (Sections 2 through 6 of Article 4) were rendered unconstitutional by virtue of the United States Supreme Court decision of *Reynolds v Sims*, 377 US 533 (1964). The *Reynolds* case held that the Equal Protection Clause of the Fourteenth Amendment requires that both houses of a state legislature be apportioned on the basis of one person, one vote. The Michigan Supreme Court invalidated the Commission on Legislative Apportionment in 1982. The Michigan Supreme Court adopted redistricting standards for the drawing of House and Senate districts following those standards for the 1982 election. In 1996 the Michigan Legislature enacted a State Legislative Redistricting Standards Act that codified the standards used by the Michigan Supreme Court in adopting a state legislative redistricting plan in 1982 and 1992 (MCL 4.261).



Term Limits on Federal Officials Elected from Michigan

Article II, Section 10 of the Michigan Constitution was added by the adoption of Proposal B in November 1992. Members of the U.S. House of Representatives from Michigan are restricted to serving no more than three two-year terms (six years) in a 12-year period. U.S. Senators elected from Michigan are restricted to serving no more than two six-year terms (12 years) in a 24-year period. State term limits on federal legislators were challenged in Arkansas. The U.S. Supreme Court in 1995 held that states could not impose term limits on federal officials. Only an amendment to the U.S. Constitution could impose such limitations, according to *U.S. Term Limits v. Thornton* 514 U.S. 779 (1995).



CONCLUSION

When the Senate Committee on Campaign & Election Oversight was formed in 2007, our mission was to evaluate Michigan's elections process and seek updates that will maintain the integrity of elections in Michigan. This report is a result of our work, gathering testimony from a variety of stakeholders across the state.

As technology improves and elections become more sophisticated, it is critical that our laws keep pace with these changes. Thus, while this report is complete, the committee's work is far from finished. This document will serve as a vital resource as we work to update Michigan's electoral system, making it more voter-friendly and ensuring the institutions of government upon which we rely are meeting our state's needs in these changing times.

The laws and regulations under which campaigns and elections in Michigan operate are complex and deserve our careful study. In 2008, the committee intends to travel the state again to explore new issues related to Michigan's election laws. As we continue our work on these important issues, our guiding principle remains to gain as much information as possible before acting on legislation, so we can forge consensus and craft strong public policy that improves on Michigan's already strong electoral system.



MINORITY REPORT



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THE SENATE STATE OF MICHIGAN

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CAMPAIGN AND ELECTION
OVERSIGHT (MVC)
FAMILIES AND HUMAN SERVICES (MVC)
ECONOMIC DEVELOPMENT AND
REGULATORY REFORM
FINANCE
HEALTH POLICY

Minority report on 2007 committee hearings of the Senate Committee on Campaign and Election Oversight

Senator Gilda Z. Jacobs, Minority Vice Chair

Senate Democrats were pleased with the public participation that occurred during the hearings held by the Committee in 2007, particularly those which were held outside the Capitol complex. It is always a good idea to remove ourselves from Lansing and get out and talk to citizens from other districts in their own communities.

While we support many of the initiatives noted in the Chair's report – especially the need to repair Michigan's broken initiative process law – we would like to draw special attention to the following issues, and hope that we can address them this year.

1. “No-reason: absentee voting.”

We were pleased with the uniformity of support for the extension of no-reason absentee voting throughout the state. During the hearings, the following groups or individuals expressed unqualified support for the adoption of no-reason absentee voting:

Gaylord: County Clerk Karen Bluhm

Plainfield: Michigan Election Reform Alliance
Michigan Democratic Party
Plainfield Clerk Susan Morrow

Troy: Shelby Township Clerk Terry Kowel
Canton Township Clerk Terry Bennett
Troy City Clerk Tonni Bartholomew
Groveland Township Clerk Pam Mazich
Macomb County Clerk Carmella Sabaugh

Senate Bill 12 (Sen. Liz Brater, D-18th District) is before the committee, and we hope that we can move forward on this issue in 2008.



2. Permanent absentee voting list.

In 2007 the Michigan Court of Appeals stopped a longstanding practice of many clerks who maintained a list of permanent absentee voters to whom they would mail absentee ballot application requests before each election. Several clerks testified that it was both a longstanding and proper practice that should be allowed. Senate Democrats believe this practice is appropriate, saves money, and encourages voting. We agree with the following citizens who expressed their support to the Committee last year:

Canton Township Clerk Terry Bennett
Auburn Hills City Clerk Linda Shannon
Birmingham City Clerk Nancy Weiss
Groveland Township Clerk Pam Mazich

The bill to correct this situation has passed the House, and is waiting for a hearing in this committee (HB 4553 – Rep. Corriveau, D-20th District). Senate Bill 160 (Sen. Irma Clark-Coleman, D-3rd District) is also before the committee. We also believe that clerks should be allowed to begin the processing of absentee ballots several days before the election, to avoid election-day backups.

3. Student voting rights.

Several students testified in favor of the repeal of the motor vehicle code section that requires that one's voting address and driver's license address are the same. Students from the following organizations indicated their support for the repeal: United States Student Association, Student Association of Michigan, and Oakland University Student Congress. The bill to correct this practice has passed the House, and is before the committee (HB 4447 – Rep. Warren, D—53rd District). Sen. Gretchen Whitmer (D-23rd District) also introduced SB 518 which would make similar changes.

4. Early voting.

Michigan should allow early voting, under which the clerk's offices would allow walk-in voting for 14 days before an election. During our committee hearings, some clerks from less-populated areas expressed a concern with staffing levels, and we look forward to working with them to resolve that issue. Senate Bill 126 (Sen. Deb Cherry, D-26th District) is before the committee but has not been given a hearing.

We would like to thank the Chair for this opportunity to point out our priorities, and we look forward to a successful 2008 legislative session for the committee.



Senator Gilda Z. Jacobs
Minority Vice Chair